

## **Family Support in the Marines**

### **Marine Corps Changes Family Support Rules**

The Marine Corps recently rewrote the family support guidelines which apply to Marines. Now the Legal Administration Manual has a separate chapter which specifies the Marine Corps policy on support, paternity, and garnishment actions involving Marines' pay.'

Chapter 8 of the Legal Administration Manual is a significant expansion of the policy and guidelines for the Marine Corps. Perhaps the most significant change is that the Marine Corps now joins the Army in making its support obligation punitive. A violation of Chapter 8 is now punishable under Article 92 of the Uniform Code of Military Justice. In addition to making the obligation punitive, the Marine Corps changed the basic support formula used to determine a Marine's support obligation.

Although the new Marine regulation is modeled after Army Regulation 608-99, it is not identical. The Marine Corps regulation, like the Army regulation, sets up a priority for establishing and enforcing support obligations. All Marines must comply with a court order of support or a written support agreement signed by the parties. In the absence of either a court order or a written agreement, Chapter 8 sets out interim support requirements.

The general rule for the interim support requirement is that the Marine owes the greater of \$200 per month per supported family member or the entire Basic Allowance for Housing (BAH) up to a maximum of one-third of the Marine's gross pay. For a single family living in government quarters, the interim support will be \$200 per supported family member, up to a maximum of one-third of the Marine's base pay.

BAH is the new designation for housing paid to all service members. As of January 1, 1998, leave and earning statements will not designate BAQ and VHA authorized for the service member for that locale. Gross pay is defined as basic pay and BAH, but it does not include hazardous duty pay, incentive pay, or basic allowance for subsistence.

When a Marine is married to another service member, there are special rules for the support obligation. The Marine has no support obligation for the other service member. If there are children of the marriage who are entitled to support, however, the regulation sets up some rules. If the children are in the custody of one service member, the non custodial Marine owes the greater of \$200 per supported family member or BAH, up to a maximum of one-third of the Marine's gross pay. If the children are split between the service couple, there is no support obligation.

Under the new interim support requirement, support payments will be paid for up to twelve months or until a court order or written agreement is obtained, whichever occurs first. The 12 month limitation means 12 consecutive months. If a Marine pays the required support for a few months, then stops paying and a complaint is received, the 12 month period starts again. Unlike the Army regulation, in-kind payment of financial support is authorized, at the discretion of the Marine commander, for expenses other than nongovernmental housing expenses, such as automobile loans or charge accounts.

Chapter 8 sets out specific reasons for releasing a Marine from his obligation to pay support. A Marine's commander may release a Marine under one of the following circumstances: if the Marine cannot determine the whereabouts and welfare of the child(ren) concerned; if it is apparent that the person requesting support for the child(ren) does not have physical custody of the child(ren); if the Marine is the victim of a substantiated instance of physical abuse by a spouse who is requesting support; or if the family member is in jail.

The regulation refers to "commander" throughout without limiting the level of command. The proponent of the new regulation, the Legal Assistance Policy Branch, Headquarters, Marine Corps, indicates that battalion level command is the appropriate level. Drafters, however, did not want to restrict interpretation of the term; thus, the regulation allows for flexibility in the diverse missions of the Corps.

In addition to the above specified reasons related to family support, the regulation allows release from spousal support under the interim standards if the spouse who is requesting support has engaged in marital misconduct. The General Court-Martial Convening Authority is the approval authority for such a request.

The enforcement mechanism for this regulation is the Marine commander. A commander has five working days to respond to a complaint of nonsupport against a Marine in his command. When a commander receives a nonsupport complaint, the commander must interview the Marine about whom the complaint is made and must inform the Marine of his Article 31 rights.

Marine commanders must address paternity claims against Marines under this regulation as well. While the regulation states a preference for civil court resolution of the paternity issue, if a Marine admits paternity of a child, the regulatory requirements of support apply to that child, regardless of whether a court order of support exists.

The Army legal assistance program at the Defense Language Institute provides help on personal legal matters to members of all services and their family members. Call for an appointment at 242-5084/3.

Adopted from March, 1998 The Army Lawyer